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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/797,889

03/10/2004

James Benjamin Williams

D-51

5049

21253

7590

10/05/2006

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EXAMINER

HAVAN, THU THAO

ART UNIT

PAPER NUMBER

3691

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/797,889

Applicant(s)

WILLIAMS ET AL.

Examiner

Thu Thao Havan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Detailed Action**

***Response to Amendment***

Claims 1-22 are pending. This action is in response to the remarks received July 18, 2006.

***Response to Arguments***

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **1-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al. (US 6,611,815) in view of Haskins (US 6,064,969).

Re claims **1** and **3**, Lewis teaches the method of issuing and managing investment instruments (col. 3, lines 31-58) which comprises, in combination, the steps of:

establishing an investment fund (fig. 1),

creating a security which represents a claim against and is secured by said investment fund, said security entitling its holder to receive, at one or more future maturity dates specified by said security, either a lump sum payment amount (col. 1, lines 34-45) or,

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at the option of said holder, to receive a sequence of annuity payments, the amount and payment date of each of said annuity payments being specified by said security (col. 2, lines 39-52),

transferring said security to a purchaser in exchange for a purchase price amount (col. 3, lines 8-51),

depositing at least a substantial portion of said purchase price amount into said fund, investing the assets of said fund so that the net asset value of said fund at said maturity date should be adequate to pay to said holder either said lump sum payment amount or an amount adequate to purchase said annuity (col. 5, line 25 to col. 6, line 65), and

on or after said maturity date, transferring either said lump sum payment amount or said annuity to said holder as elected by said holder (col. 5, lines 25-45). *In other words, Lewis discloses fixed annuity. It depends on the annuitants to choice a specific fixed annuity that includes the certainty of the dollar amount upon retirement. The specific dollar a person contributes to his/her fund then the exact amount is calculated for the years in relation to retirement. For example, Lewis discloses the account value at the end of the prior month is \$95,000.00, net investment earnings for the month are \$900.00, and the amount of the periodic (monthly) income payment is \$1,500.00, then the current amount value would be \$94,400.00.*

However, Lewis does not explicitly teach the limitation of "at the time security is created." On the other hand, Haskins discloses creating certificate of deposit at the time security is created (col. 1, line 52 to col. 2, line 36; abstract; figs. 16-18). He discloses the flexible certificate of deposit permits the bank customer to select the number of

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payment years, typically any year from 5 to 30, and the mode or frequency of interest payments (annual, semi-annual, quarterly or monthly). The interest rate on the certificate of deposit will vary according to these inputs, as well as the amount of the deposit. As is known, a certificate from a bank stating that the named party has a specified sum on deposit, usually for a given period of time at a fixed rate of interest. Thus, it would have been obvious to one of ordinary skill in the art to initially create a definitely amount of payment for a certificate of deposit at the time security is created as discloses in Haskins.

Re claim 2, Lewis teaches a method as claimed in claims 1 and 3. Therefore the rationale applied in the rejection of claims 1 and 3 applies herein. In addition, Lewis teaches a method for producing and distributing investment securities (figs. 3-4) comprising, in combination, the steps of:

creating a security which comprises a contract in which the issuer of the security promises to pay to the holder of the security a predetermined guaranteed lump sum cash payment at a predetermined maturity date or to pay, in the alternative and at the option of the holder, a sequence of predetermined annuity payments at defined times (col. 5, line 25 to col. 6, line 65), and

issuing said security to a holder in advance of said maturity date in return for a purchase price payment (col. 11). *Lewis discloses a fixed annuity wherein maturity date in return for a purchase price payment is calculated. The security includes payment of the lump sum.*

Re claim 4, Lewis teaches performing during an accumulation period after said step of transferring and before said future maturity date, of publishing, reporting or otherwise

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revealing both the amount of said future income and the stated current monetary value of said units or shares expressed in said specified currency (col. 12, lines 8-35). *Lewis discloses that the annuitant knows at all times the lump sum value of investment performance.*

Re claims **5, 12-13**, and **16-17**, Lewis teaches instrument entitles its holder to redeem upon request made during said accumulation period some or all of units or shares for said stated current monetary value (col. 5, lines 40-45; col. 13, lines 20-31).

Re claims **6** and **20**, Lewis teaches single monetary unit of a specified currency payable for each of said units or shares at periodic calendar intervals is a specified integral number of dollars payable monthly, quarterly or annually for each of said units or shares (col. 6, lines 60-63; col. 5, lines 40-45). *Lewis discloses annuitants know exactly how much money they have annually.*

Re claims **7-9, 11, 18**, and **21-22**, Lewis teaches single monetary unit of specified currency payable for each of said units or shares at periodic calendar intervals is one dollar per month for each of said units or shares (col. 10, lines 33-55). *In other words, Lewis discloses annuitant knows payable amount by the amount he/she contributes to his/her monetary unit whether one dollar or percentage amount.*

Re claims **10, 15**, and **19**, Lewis teaches a method as claimed in claims 1 and 3. Therefore the rationale applied in the rejection of claims 1 and 3 applies herein. In addition, Lewis teaches a method for issuing and redeeming an investment instruments that entitles is holder to receive a specified minimum annuity income after a maturity date (col. 6-7), said method comprising, in combination, the steps of:

issuing an investment instrument denominated as a number of units or shares each of which entitles the owner of said instrument to receive a specified monetary unit of a specified currency payable at periodic calendar intervals after maturity date (col. 10, lines 33-55),

paying to said owner of said instrument at said maturity date a minimum lump sum cash payment specified by instrument or, in the alternative and at the option the owner, transferring to said owner in exchange for said instrument or said lump sum payment the right to receive for each of said units or shares at least said specified monetary unit of said specified currency payable at said periodic calendar intervals (col. 9, line 54 to col. 10, line 55).

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<http://pair-direct-uspto.gov/>>. Should you have questions on access to the

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Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).



Thu Thao Havan

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9/21/2006